

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

|                            |   |                            |
|----------------------------|---|----------------------------|
| ISOSCELES PROPERTIES, LLC, | ) |                            |
|                            | ) |                            |
| Plaintiff,                 | ) |                            |
|                            | ) |                            |
| v.                         | ) | Case No.                   |
|                            | ) |                            |
| CITY OF INDEPENDENCE,      | ) | <b>Jury Trial Demanded</b> |
| MISSOURI,                  | ) |                            |
|                            | ) |                            |
| Defendant.                 | ) |                            |

**DEFENDANT CITY OF INDEPENDENCE’S NOTICE OF REMOVAL**

COMES NOW Defendant City of Independence, Missouri, by and through undersigned counsel, and, pursuant to 28 U.S.C. §§ 1441(c) and 1446, hereby removes Case No. 2016-CV25579 from the Circuit Court of Jackson County, Missouri, (the “Action”) to the United States District Court for the Western District of Missouri. For its grounds for removal, Defendant states as follows:

**STATEMENT OF THE CASE**

1. On December 16, 2020, Plaintiff Isosceles Properties, LLC filed the Action in the Circuit Court of Jackson County, Missouri. A copy of the “Petition for Declaratory Judgment (EA), Temporary Regulatory Taking Without Just Compensation (X1), Violation of Equal Protection Under the Missouri Constitution Article I, Section 2 and the 14th Amendment to the United States Constitution (X1), Violation of Civil Rights (42 U.S.C. Section 1983) (X1), and Inverse Condemnation (RC or X1),” (the “Petition”) is attached hereto as Exhibit A.

2. On or about December 28, 2020, Plaintiff purports to have served Defendant City of Independence.

3. Count II of Plaintiff's Petition is brought under the Missouri Constitution and the 14th Amendment to the Constitution of the United States of America and alleges unequal and discriminatory treatment of similarly situated people, properties, and uses.

4. Count III of Plaintiff's Petition is brought under 42 U.S.C. § 1983 and alleges a violation of procedural and substantive due process and equal protection.

5. Count IV of Plaintiff's Petition is brought under the Constitution of the United States of America and alleges a temporary regulatory taking without just compensation.

6. Additionally, Plaintiff's Petition alleges other claims based on state law including declaratory judgment (Count I), and inverse condemnation (Count V). All Plaintiff's claims are related in that Plaintiff generally alleges Defendant has wrongfully taken Plaintiff's property without just compensation.

#### **LEGAL BASIS FOR REMOVAL**

7. The Federal Courts have original jurisdiction over this matter pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1441, and 28 U.S.C. § 1446 because Plaintiff's claims include alleged violations of the Constitution and laws of the United States of America. More specifically, Count II alleges a violation of the 14<sup>th</sup> Amendment to the Constitution of the United States of America. Count III alleges a violation of 42 U.S.C. § 1983, and Count IV alleges a taking under the United States Constitution.

8. This Court has supplemental jurisdiction over all of Plaintiff's other claims because they all relate to the circumstances surrounding Plaintiff's alleged taking without proper compensation so as to form part of the same case and controversy to invoke this Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a).

9. Defendants were purportedly served with the Petition on December 28, 2020, and the Petition was filed on December 16, 2020, and therefore removal is timely and proper under 28 U.S.C. § 1446 because this removal is being filed less than 30 days after the purported service.

10. Pursuant to 28 U.S.C. § 1446(a), a copy of the Plaintiff's Petition is attached hereto as **Exhibit A**. Copies of all other documents filed in the action pending in the Circuit Court of Jackson County, Missouri, are attached hereto as **Exhibit B**.

1. Written Notice of Removal will be promptly mailed to all adverse parties and to the Clerk of the Circuit Court of Jackson County, Missouri after the filing of this Notice pursuant to 28 U.S.C. § 1446(d), a copy of which is attached hereto as **Exhibit C**.

### **CONCLUSION**

By this Notice of Removal, Defendant neither waives any objections it may have as to service, jurisdiction or venue, nor does it intend to waive any immunities, defenses, or objections it may have to this Action. Defendant intends no admission of fact, law, or liability by this Notice, and expressly reserves all defenses and/or motions. Defendant also demands a trial by jury on all cause so triable.

Respectfully submitted,

**ENSZ & JESTER, P.C.**



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**ATTORNEYS FOR DEFENDANT**

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**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that, on January 14, 2021, the above and foregoing was electronically filed with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

I further certify that on January 14, 2021, a true and correct copy of the above and foregoing was sent via U.S. Mail, first class, postage prepaid, to the following:

JOE W. ROE  
THE ROE LAW FIRM LLC  
Corporate Hills North  
4444 N. Belleview Avenue, Suite 208  
Kansas City, Missouri 64116  
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Facsimile: 816-421-9001  
E-mail(s): jroe@theroelawfirm.com  
**ATTORNEYS FOR PLAINTIFF**

MO #34878

A handwritten signature in blue ink, appearing to be "B. D. M.", written over a horizontal line.

**ATTORNEYS FOR DEFENDANT**